

## REMARKS

Applicants have amended claims 1, 9, 11, 12, 14 and 21 and canceled claims 6, 22 and 23 without prejudice. New claims 26-29 have been added. Claims 1-5, 7-21, 24-29 remain pending in this application. The specification has been corrected for better form to correct typographical errors.

Applicants submit a new set of formal drawings together with previously submitted Figures 3 and 4 marked in red indicating corrections thereto. Figure 3 was amended by replacing one of the numeric identifiers "19" with "21a" and replacing numeric identifier "21" with "21b" to identify respective open and closed positions. With these amendments, Figure 3 now has one numeric identifier 19 identifying the depression or concavity, and the open and closed positions are identified with their own numeric identifiers, consistent with the specification. (Figure 3; p. 3, lines 12-16). Figure 4 has also been amended by replacing original numeric identifiers "17" and "19" with "16" and "18" to identify the first and second members. Numeric identifiers "17" and "19" were also added to Figure 4 to correctly identify the depressions or concavities of respective members 16, 18. The specification has been amended to consistently refer to members and depressions or concavities, consistent with the application as originally filed. (Figures 3 and 4; p. 3, lines 10-16; p. 3, line 33 – p. 4, line 7). A separate letter requesting approval of the drawing corrections is also enclosed.

Applicants respectfully submit that the claims, as amended, are patentably distinguishable over the cited references. Reconsideration and allowance of this application are respectfully requested.

### I. REJECTIONS UNDER 35 U.S.C. 103(a).

#### A. The Office Action Rejections.

In pages 2-5 of the Office action, claims 1-10 and 14-25 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,580,597 to Kramer et al. ("Kramer") in view of U.S. Patent No. 4,693,341 to Ikeuchi et al. (Ikeuchi), U.S. Patent No. 3,781,447 to Durso ("Durso"), FRE 2,668,682 to Petitbout ("Petitbout"), EP. 303,328 to Jaeger ("Jaeger"), U.S. Patent No. 4,285,980 to Lewis ("Lewis") and U.S. Patent No. 2,779,681 to Sell et al. ("Sell").

In page 5 of the Office action, claims 11-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over the references as applied to claims 1-10 above, and further in view of JP 56-85257 to Uotani ("Uatani").

The Applicants respectfully traverse the rejections. To expedite prosecution of the application, Applicants offer the above amendments and the following remarks. Since claims 6, 22 and 23 were canceled without prejudice, the rejections concerning claims 1-5, 7-21, 24 and 25 are addressed.

B. Claims 1-10, 14-21, and 24-29 are Patentable over the Kramer Patent in View of the Ikeuchi, Durso, Petibout, Jaeger, Lewis and Sell References.

The subject application is directed to a device and a method for providing an impression on a meat product utilizing shell members. Each member has a shell surface and defines a concavity for holding a meat product. The meat product can be unpackaged or packaged in a film. Patterned protrusions extend from the shell surfaces. When the first and second members are closed together, they clamp the meat product between the first and second surfaces and impress the protrusion patterns onto the meat product. The members are heated with, for example, steam, hot water or electricity, and the impressed patterns are cooked onto the meat product. The members are opened or released, and the impressed meat product is removed from the concavities and can be cooked to a desired state. Additional members can be used as part of a conveyor system. More specifically, shell members are connected to a conveyor, and the conveyor is rotated so that shell members with meat products are placed in hot water, and the impressed patterns are cooked onto the meat product. Other members that have passed through the hot water and are located above the conveyor can be opened to remove the meat product or to place new meat products in the members.

The Kramer patent describes a method for simulating a net retaining surface appearance while retaining natural meat juices utilizing a die cavity and heat shrinkable packaging material. Specifically, a die cavity 10 with an interior surface 12 simulates a netted effect. A first heat shrinkable material 20 is positioned in the die cavity 10 to conform to the interior surface 12. A meat product 14 is then placed in the die cavity 10. As a result, the first heat shrinkable material 20 conforms to the surface 12. After the cavity 10 is filled with meat 14, a second sheet of heat shrinkable material 24 closes the cavity 10, forming a complete meat package. The formed meat package is then cooked in hot water to heat shrink the heat shrinkable material and to emboss the design on the cooked meat product. The mold may utilize separate heating elements 18, which are located in the bottom of the cavity 10.

To establish prima facie obviousness of a claimed invention, all claim limitations must be

taught or suggested by the prior art. MPEP §2143.03. The Kramer patent, however, fails to disclose or suggest a number of aspects of Applicants' independent claims 1, 14, and 21.

Initially, the Kramer patent fails to disclose or suggest providing a first member comprising a first surface defining a concavity and comprising a plurality of protrusions extending from said first surface and arranged in a first pattern, and providing a second member comprising a second surface defining a concavity comprising a plurality of protrusions extending from said second surface and arranged in a second pattern. In contrast, the Kramer patent discloses a single die cavity with an inner surface and a heat shrinkable material.

The Kramer patent also fails to disclose or suggest closing the first and second members. Instead, the die cavity is filled so that meat and the heat shrinkable material conform to the interior surface of the die cavity.

Further, the Kramer patent fails to disclose or suggest sandwiching the meat product between the first and second surfaces and impressing the first and second patterns on the meat product. There is no such sandwiching action disclosed or suggested in the Kramer patent. Rather, the meat product is simply placed in the die cavity and covered by a heat shrinkable material.

The Kramer patent also fails to disclose or suggest heating two members. Instead, the Kramer patent describes heating a die cavity with heating elements in the bottom of the die cavity.

Additionally, the Kramer patent fails to disclose or suggest cooking the impressed patterns onto the meat product. Rather, the Kramer patent describes that the hot water bath shrinks the encapsulating package material and thereby embosses the meat product surface with the design of the meat cavity.

The Kramer patent also fails to disclose or suggest opening two members.

The other cited references do not cure the deficiencies of the Kramer patent and have their own deficiencies. For example, the Durso, Petitbout, Jaeger, Lewis, and Sell patents fail to disclose or suggest providing first and second members comprising a surface defining a concavity and comprising a plurality of protrusions extending from the surface and arranged in a pattern. Instead these patents describe molding or netting devices or sealing products. The Durso patent describes molded sections, without protrusions, for producing skinless sausage. The Petitbout patent describes molded dies. The Jaeger patent describes a netting. The Lewis patent describes countoured molded sections in the shape of a turkey, but not protrusions. The Sell patent describes placing a meat product in a single metal container or tray, which serves as a mold, to shape the contents of the

container. Further, these patents fail to disclose or suggest closing such members sandwiching the meat product between the first and second surfaces, heating the members, thereby heating the meat product there between, for cooking the impressed patterns onto the meat product and opening such members. For example, the Ikeuchi patent describes heating fish paste to cook and color the paste, and a mold to form a shellfish shape.

Accordingly, the cited references fail to disclose or suggest a number of aspects of Applicants' independent claims 1, 14 and 21, and the combination of these patents does not form the claimed invention. Consequently, the rejection under 35 U.S.C. §103(a) cannot be maintained. MPEP §2143.03. Further, there is no suggestion or motivation to combine the Kramer patent with one or more of the other cited patents. Merely because references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination. MPEP §2143.01.

For example, there is no suggestion or motivation to combine the Kramer and Ikeuchi patents. The Kramer patent is directed to forming a simulated netting pattern on a meat product, whereas the Ikeuchi patent is directed to molding fish paste. Further, the Kramer patent is directed to retaining natural juices through the use of a heat shrinkable material, whereas the Ikeuchi patent provides no such feature. Considering these differences, a person of ordinary skill in the art would not be motivated to combine the references.

Based on the forgoing, the cited references, alone or in combination, do not disclose or suggest all of the limitations of Applicants' independent claims 1, 14, or 21, and there is no motivation or suggestion to combine selected references.

Further, it would not have been obvious to modify the device described in the Kramer patent to form Applicants' claimed invention. As described in the Kramer patent, the objects of the device and process include providing a simulated netted surface and retaining the natural juices of the meat products. (col. 1, lines 10-15.) This is accomplished by using heat shrinkable materials 20 and 24 in conjunction with a conveyor system and a heated bath, which are configured to process a single die cavity 10. One of the heat shrinkable materials 20 is placed in the bottom of the cavity, and the other heat shrinkable material 24 is placed across the top of the die cavity. With the particular die cavity and heat shrinkable material arrangement described in the Kramer patent, it would not have been obvious to modify this arrangement to form Applicants' invention, particularly considering the many differences between the configuration described in the Kramer patent and Applicant's claims.

Additionally, the Kramer patent teaches away from Applicants' claimed configuration in which first and second members are closed and opened, and the meat product is sandwiched between the first and second surfaces. In contrast, the Kramer patent describes a die cavity.

Based on the foregoing amendments and remarks, the Applicants respectfully submit that the cited references, alone or in combination, do not disclose or suggest all of the limitations of Applicants' independent claims 1, 14 and 21, and there is no motivation or suggestion to combine the references as asserted in the office action. Thus, Applicants respectfully submit that independent claims 1, 14, and 21 and respective dependent claims 1-5, 7-13, 15-21, 24 and 25 are also allowable since these dependent claims incorporate all of the limitations of their respective independent claims and are novel and unobvious limitations thereto. New claims 26-29 recite additional novel and unobvious limitations directed to the members being shell members. Accordingly, Applicants respectfully submit that pending claims 1-5, 7-13, 15-21, and 24-29 are patentable over the cited references and respectfully request that the 35 U.S.C. §103(a) rejections be withdrawn.

C. Claims 11-13 are Patentable over the Kramer Patent in View of the  
References as Applied to Claims 1-10, and Further in View of the Uotani Patent.

To establish prima facie obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. MPEP §2143.03. The Uotani patent does not cure the previously described deficiencies. Further, there is no suggestion or motivation to combine the Uotani patent with the other references since the Uotani patent is directed to molding vessels for rice.

Further, Applicants respectfully submit that dependent claims 11-13 are also allowable since they recite further novel and non-obvious limitations and incorporate all of the elements and limitations of independent claim 1. Accordingly, Applicants respectfully submit that the cited references, alone or in combination, do not disclose or suggest all of the limitations of Applicants' claims 11-13, and there is no motivation or suggestion to combine the references. Applicants respectfully request that the rejection of claims 11-13 under 35 U.S.C. §103(a) be withdrawn.

### **III. CONCLUSION**

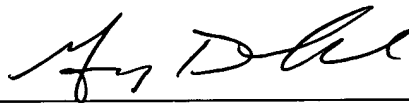
Based on the forgoing amendments and remarks, Applicants respectfully submit that they have disclosed and claimed a novel and unobvious invention distinguishable from the cited references, individually or in combination the cited references. Accordingly, Applicants respectfully request that a timely Notice of Allowance be issued in this case. If there are any remaining issues that can be resolved by telephone, Applicants invite the Examiner to contact the undersigned at the number indicated below.

Respectfully submitted,

**BINGHAM McCUTCHEN, LLP**

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By: \_\_\_\_\_



Gary D. Lueck  
Registration No. 50,791  
Attorneys for Applicants

Three Embarcadero Center, Suite 1800  
San Francisco, California 94111-4067  
Telephone: (213) 680-6400  
Facsimile: (213) 680-6499